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COMMITTEE ON THE RIGHTS OF THE CHILD

Second session

SUMMARY RECORD OF THE 36th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 2 October 1992, at 10 a.m.

Chairman: Mrs. BADRAN

CONTENTS

Statement by the Under-Secretary-General for Human Rights

Matters relating to the methods of work of the Committee and the pre-sessional working group in respect of the consideration of reports to be submitted by States parties in accordance with article 44 of the Convention, including:

(a) Consideration of the question of technical advice or assistance

Other matters

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The meeting was called to order at 10.15 a.m.

STATEMENT BY THE UNDER-SECRETARY-GENERAL FOR HUMAN RIGHTS

1. Mr. BLANCA (Under-Secretary-General for Human Rights) said that he attached particular importance to the efforts made by the Committee to improve the situation of children throughout the world and fully advance their cause. It was indeed a difficult task, one which concerned practically half - the most precious yet most vulnerable half - of mankind. The Committee, as the body to monitor implementation of the provisions of the Convention on the Rights of the Child, had an essential role both in determining the obstacles that prevented children from fully enjoying their rights and in pointing to possible solutions and helping to mobilize resources to cope with the needs. Since its first session, the Committee had already successfully performed a number of tasks and gained experience which it could turn to good use when it came to examine the first reports that States parties were required to submit under the Convention.

2. Reviewing a number of developments of interest to the Committee and connected with implementation of the Convention, he welcomed, first of all, the fact that the number of State parties had reached an impressive total of 123. The promptness with which such a large number of States had acceded to the Convention was a clear illustration of the international community's collective commitment to children and its sincere desire to protect and promote their rights. As to the various activities in connection with children's rights undertaken in the human rights field since the Committee's first session, he pointed out that, at the forty-sixth session of the General Assembly, the Third Committee had discussed the question of implementation of the Convention. In resolution 46/112, dated 12 December 1991, the General Assembly had supported the organization of the future work of the Committee on the basis of two sessions annually, each for a duration of two or three weeks, and the establishment of a pre-sessional working group. Moreover, at the request of the Assembly, the Secretary-General had convened a brief meeting of the States parties on 11 November 1992 to determine the duration of future meetings of the Committee.

3. At its forty-eighth session, the Commission on Human Rights had, in resolution 1992/75, taken note of the status of the Convention and called upon all States to become parties to it. It had also appealed to States parties that had made reservations to review the compatibility of their reservations with the provisions of the Convention. In addition, it had supported the recommendations contained in the Committee's report (A/47/41), in particular the organization of its work and the establishment of a pre-sessional working group. The Commission had also considered the new report submitted by its Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/1992/55). The addendum (E/CN.4/1992/55/Add.1) reported on a visit by the Special Rapporteur, Mr. Vitit Muntarbhorn, to Brazil. In resolution 1992/76, the Commission had, among other things, endorsed the

Special Rapporteur's conclusions and recommendations concerning the strengthening of preventive strategies to tackle the root causes of the sale of children, child prostitution and child pornography. It had also reaffirmed the need for establishing and ensuring the implementation of a legal framework aimed at effectively protecting children's rights, as well as providing appropriate remedies for children whose rights were violated, and had encouraged the establishment of bodies and institutions, governmental and non-governmental, acting on behalf of the child in the light of his or her best interests. The Commission had invited the Special Rapporteur to cooperate closely with the Committee.

4. At the same session, the Commission had adopted in resolution 1992/74 a programme of action for the prevention of the sale of children, child prostitution and child pornography, and had considered a draft programme of action for the elimination of the exploitation of child labour. It had, in addition, considered at that session the report of the Working Group on Contemporary Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. In resolution 1992/47, it had, among other things, recommended that the Committee on the Rights of the Child, when examining reports by the States parties, give particular attention to the implementation of the relevant articles of the Convention, with a view to combating contemporary forms of slavery. It had also invited all Member States to consider the possibility of taking appropriate action for the protection of particularly vulnerable groups such as children against exploitation by prostitution and other slavery-like practices.

5. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, at its forty-fourth session, had also discussed various questions relating to children's rights. It had, inter alia, considered Mrs. Bautista's report on the application of international standards concerning the human rights of detained juveniles (E/CN.4/Sub.2/1992/19). In resolution 1992/25, the Sub-Commission had expressed the wish that the Committee on the Rights of the Child be represented at the meeting of experts that the Secretary-General intended to organize in March 1993 on the application of international standards concerning the human rights of detained juveniles. Active preparations were going ahead for the World Conference on Human Rights, to be held in Vienna in June 1993. The Preparatory Committee for the World Conference had held its second session from 30 March to 10 April, and its third session from 14 to 18 September 1992. Moreover, three regional meetings were scheduled, in Tunis, in San José and in Bangkok. The Secretariat was preparing six studies on the objectives set by the General Assembly in its resolution 45/155. A number of ideas and concrete suggestions regarding the purpose to be achieved had already been put forward, more particularly in connection with the rights of children and strengthening the coordination between treaty monitoring bodies. The meeting of chairpersons of human rights treaty monitoring bodies would be held from 12 to 16 October 1992, in Geneva. The meeting would discuss measures for closer ties between the various monitoring bodies and better coordination of their work, in the context more particularly of the World Conference. It would doubtless examine the comments

and recommendations that the various bodies wished to transmit to the Preparatory Committee at its final session and to the World Conference itself. He wished to assure the Committee of the full support of the Centre for Human Rights and its secretariat.

6. Lastly, it should always be remembered that children were the men and women of tomorrow and that tackling the problem of the rights of children was quite simply a matter of dealing with human rights. Reality formed a whole, and the main tragedy lay in the social imbalances and in underdevelopment. The United Nations' hopes in the 1960s and 1970s of overcoming the stagnation the inevitability of underdevelopment seemed to grow dim. Resignation should be avoided, but a bureaucratic attitude to the situation should be avoided at all costs. The subject of children did not lend itself to bureaucracy or to mere expressions of indignation. Working for the rights of children meant going beyond mere obligations.

7. Mr. HAMMARBERG said that he greatly appreciated the statement by the Under-Secretary-General for Human Rights. He would none the less point out that article 43, paragraph 11, of the Convention on the Rights of the Child stated that the "Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention". Cooperation with the secretariat was indeed excellent, but Committee members were extremely concerned about the workload. The Convention had, in a very short period, been ratified by a large number of countries and the Committee should receive 57 reports from States parties in 1992 and 44 reports in 1993. From the most optimistic estimates, at least two meetings would be needed for each report and, at that rate, the backlog might be such that the last report to be submitted in 1992 would not be considered before 1996. Members of the Committee hoped that States parties, at their meeting to be held in November 1992, would decide to grant the Committee two sessions a year, each lasting three weeks. Moreover, the Committee's working conditions should be improved so that it had increased assistance from the secretariat, including assistance in the matter of analytical work, and in the fields of computerization and systematic information. He realized that the secretariat was undoubtedly called on in the same way by all of the treaty monitoring bodies, but it should be remembered that the Committee on the Rights of the Child was the only committee to deal with a whole range of human rights: economic, social, political and civil, and it was also the only one which had to deal with technical assistance issues.

8. Mr. BLANCA (Under-Secretary-General for Human Rights) said he realized that the budgetary, staffing and accommodation problems facing the United Nations affected the work of the various committees, working groups and special rapporteurs. The question therefore lay with the Secretary-General, who was himself now grappling with the overall problems of financing. The solutions were of course clearly tied in with the commitment by Member States and in particular, by the industrialized countries, which should take up the responsibilities they had entered into by joining the United Nations. The

current budget of the Centre for Human Rights accounted for 0.8 per cent of the budget of the Organization. If it did not increase, no miracle could be expected. Mr. Boutros-Ghali, the Secretary-General of the United Nations, had issued instructions for an increase in the budget and for posts to be created in the Centre for Human Rights. However, everyone was aware that things were not done speedily in the United Nations and, in difficult times, the finance department tended to be slow in following the Secretary-General's instructions. Nevertheless, five provisional posts had been created for the activities connected with Yugoslavia and a further 11 posts would be established by the end of the year, something that would definitely improve the situation. He wished to assure members of the Committee that he was entirely on their side, but would none the less point out that no one could do the impossible.

MATTERS RELATING TO THE METHODS OF WORK OF THE COMMITTEE AND THE PRE-SESSIONAL WORKING GROUP IN RESPECT OF THE CONSIDERATION OF REPORTS TO BE SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLE 44 OF THE CONVENTION, INCLUDING;

(a) CONSIDERATION OF THE QUESTION OF TECHNICAL ADVICE OR ASSISTANCE (agenda item 8)

9. The CHAIRMAN invited Mr. Gomez del Prado to present to members of the Committee the programme of advisory services and technical assistance in the field of human rights.

10. Mr. GOMEZ DEL PRADO (Secretariat) said that, under the programme, the Secretary-General provided requesting governments with the following forms of assistance in the field of human rights: advisory services of experts; fellowships and scholarships; and seminars. At the present time, emphasis was placed on creating and strengthening national infrastructures to promote and protect internationally recognized standards in the field in question. If the Committee considered that a country's legislation on children should be modified, it could advise the State concerned to ask for legal assistance in doing so. Similarly, a State experiencing difficulties in drawing up its reports or in ratifying the Convention could ask for advice from the Centre for Human Rights.

11. The Convention on the Rights of the Child now held a large place in the Centre's training courses. The Centre had also published a Fact Sheet (No. 10) on the rights of the child and it helped States parties that so wished to translate the text of the Convention into their national languages. The Centre was now endeavouring to adopt an overall approach. In collaboration with the authorities of the country concerned, it appraised needs in legislation, training and the preparation of reports and then drew up a plan of action which it transmitted to other international institutions or to donor countries likely to take part in it. The Centre for Human Rights itself could also implement some of it. Moreover, it would be advisable for the Committee to prepare for States parties precise guidelines on changing laws, on training and on the preparation of reports. Lastly, despite the

limited means available to it, the Centre for Human Rights was currently carrying out 25 projects throughout the world to set up and strengthen national structures to promote and protect human rights.

12. Mrs. SANTOS PAIS asked whether there was any intention to translate the Centre's Fact Sheet No. 10, on children's rights, into languages other than English, Spanish and French, and to add to the Manual on Human Rights Reporting a chapter about the Committee on the Rights of the Child and its guidelines. When the Manual had been prepared, the Committee had not been in existence. The fact that some of the topics covered by the Committee were included in the training courses organized in the context of the advisory services was highly positive. As to the fellowship programme, it would be advisable for the Centre for Human Rights to issue more precise guidelines on the questions that the fellows were supposed to study.

13. Mr. HAMMARBERG asked whether the Centre for Human Rights could respond to requests for assistance, in view of the resources available to it.

14. Mr. KOLOSOV said that, since only a very limited number of fellowships were granted by the Centre, efforts should be made to ensure that the recipients could effectively pass on their skills to their colleagues. In short, the fellowships should not simply increase the knowledge of the fellows concerned. They should be of benefit to the country as well. He would like to know, in that connection, whether fellows were required to report to the Centre for Human Rights on their activities.

15. Mrs. EUFEMIO said she wondered whether training costs might not be cut by incorporating in one and the same course the various human rights conventions that had been ratified so far, including the Convention on the Rights of the Child. All those instruments had common features.

16. Mr. GOMEZ DEL PRADO said that Fact Sheet No. 10 on the rights of the child had already been translated into the six official languages of the United Nations and the Centre for Human Rights helped countries which so requested to translate it into the national language. The Centre granted fellowships not only under the regular fellowship programme, which was very general, but also for specific training activity under the country programmes. For example, training activity had been carried out in Romania in connection with constitutional law and the administration of justice. He had taken note of the proposal by Mrs. Santos Pais for the Manual on Human Rights Reporting to include a chapter on the Committee on the Rights of the Child, a proposal that seemed highly relevant.

17. In reply to Mr. Kolosov's question, he said that training activities and fellowships did not always produce the expected effects; persons who had received training often remained only a few years in their posts and did not sufficiently share their expertise with other members of their administrations. As Mr. Hammarberg had said, the opportunities afforded by technical assistance and advisory services could be better publicized.

Nevertheless, the Centre for Human Rights, due to the lack of financial and human resources, could not respond to all requests at the present time. Rather, it sought tó concentrate essentially on evaluation of country needs and on assistance in legal matters - training legal personnel, legislation, help in preparing reports, and so on. For the rest, it referred States to the specialized agencies that were in a position to provide them with technical aid and had the resources to do so. At the present time, two experts were on mission, one in Mongolia and the other in Sao Tome and Principe, to evaluate their needs.

18. Mr. KOLOSOV said he wondered whether, to ensure some monitoring of the work of fellows, it might not be possible to include in the fellowship application form a clause whereby the candidate would undertake to report to the Centre for Human Rights for at least five months on his activities in his own country on completion of his fellowship or period of training. In that way, States would be encouraged to keep a watch on the impact of the training received by their nationals.

19. Mr. GOMEZ DEL PRADO (Secretariat) said that Mr. Kolosov's suggestion was an interesting one, but the fellowship application forms were not prepared by the Centre for Human Rights. The Centre was none the less informed of the activities of the fellows, who were asked to submit reports, and of persons who had attended a training seminar, who were seen again in the course of visits made to the countries concerned. Persons who had been awarded fellowships or attended training programmes were now often found in national human rights structures, which were being set up by an increasing number of States.

20. The CHAIRMAN warmly thanked Mr. Gomez del Prado for the information he had provided on advisory services and technical assistance.

OTHER MATTERS (agenda item 14)

21. Mr. DYER (The Hague Conference on Private International Law) said that the Conference was a small organization with its headquarters at The Hague, in the Netherlands, and had been working for 40 years in the preparation of conventions in the field of private international law. A number of the conventions sought to protect and promote the interests of children. The conventions in force had for the most part been elaborated in the 1950s to help determine child support obligations. Two of the conventions had been revised in 1970 and also included adult support obligations, but they were aimed essentially at protecting the interests of children, in the spirit of article 27 of the Convention on the Rights of the Child. More recently, in 1980, the Conference had elaborated a Convention on the Civil Aspects of International Child Abduction, in force in 26 countries which had appointed a central authority to defend the interests of children who had been unlawfully displaced from one country to another. The Convention was akin to article 11

of the Convention on the Rights of the Child, which stipulated that countries should combat the illicit transfer of children and promote the conclusion of bilateral or multilateral agreements or accession to existing agreements. The Hague Conference was now working on a new convention to protect children in the context of inter-country adoption. It was a civil, not a penal, treaty and should be completed by 1993. It was in the spirit of article 21 of the Convention on the Rights of the Child.

22. Mrs. EUFEMIO said it was her impression that the future convention on inter-country adoption favoured national adoption over inter-country adoption. Was her impression correct?

23. Mr. DYER (The Hague Conference on Private International Law) said that the draft convention on inter-country adoption had been completed in March 1992 and would be submitted to a diplomatic conference in 1993. That conference might make further changes in the text of the convention, but it was already apparent from the explanatory report that the draft recognized the so-called subsidiarity principle, in other words, adoption in the country of origin was preferable to inter-country adoption. Inter-country adoption should only be the last resort.

24. Mrs. SANTOS PAIS said that she would like to have some information on the process for drafting conventions in the context of The Hague Conference.

25. Mr. DYER (The Hague Conference on Private International Law) explained that The Hague Conference, which had been a small European organization in the 1950s, had become a worldwide organization. It now had 38 members. In the preparation of the convention on inter-country adoption of children, The Hague Conference had taken the view that the topic was of major interest for a number of countries. It had invited more than 20 non-member countries to participate in its work on the subject, on an ad hoc basis. He hoped the convention would reflect that balanced work and would be compatible with the standards in every country in the field in question.

26. Mr. GOMES DA COSTA said he would like to know what the preliminary version of the convention said in connection with the agencies which acted as intermediaries between the developed countries and the third world countries.

27. Mr. DYER (The Hague Conference on Private International Law) said he was not quite certain that he had understood the question. If it related to the provisions of the convention concerning agencies which worked as intermediaries in inter-country adoption, the convention included a chapter that was a very delicate compromise on that point. The convention stipulated that such agencies could be authorized in different countries, but none of them had the right to act in a country without express authorization. They were what one might call "accredited" agencies in inter-country adoption. The

participation of professionals, lawyers, notaries and perhaps even certain doctors was another delicate point. The convention authorized such professionals to take part in the adoption process provided they did not take over the function of the country's central authority. But there again, every country could refuse to grant authorization to professionals and give priority to accredited agencies. Each country therefore determined of its own accord the extent to which it agreed to participation by accredited agencies or other intermediaries in the process of inter-country adoption.

28. Mgr. BAMBAREN GASTELMUNDI said it was gratifying that there were government-recognized official agencies to safeguard the value of such a noble act as adoption. He asked Mr. Dyer about illegal adoption and about the implementation of article 21 (e) of the Convention on the Rights of the Child, which provided for the conclusion of bilateral and multilateral arrangements or agreements to guarantee the requisite protection for the child.

29. Mr. DYER (The Hague Conference on Private International Law) said in connection with illegal adoption that the Conference did not deal with matters of criminal law as such. The convention was not intended to imprison persons responsible for illegal adoption. Each country should appoint a central authority to cooperate with other countries and determine whether the requirements of the convention were met. Such an arrangement could definitely eliminate illegal adoption by bringing the adoption process out into the open. Since it was kept informed, each country would simply have to contact the other countries. To that end, the convention provided for a process of inter-governmental cooperation to protect children. As to article 21 (e), he had not understood the question but hoped that his comments on cooperation between governmental authorities partly answered Mgr. Bambaren Gastelmundi's concern.

30. Mrs. MUELLER (Pathways to Peace), speaking on behalf of a number of non-governmental organizations, said she wished to express support for the Committee in an arduous and immensely responsible task and assure it that the organizations would help as far as they were able. She knew from experience that many young people also wanted to contribute to the Committee's work. Among the younger generation there were more and more people who wished to be told what was happening and have their voices heard. She hoped that, when the Committee came to consider country reports, it would insist that children should be heard and understood, emphasizing that they had something to say about the situations that affect them. The Committee could also pass on information to children and young people, for in all countries more and more of them were taking action to secure recognition of their rights. She cited, as an example, the case of a young Argentine who had met the Director-General, Mr. Blanca, to ask him a number of questions.

31. Mr. MOMBESHORA said he was touched and gratified by Mrs. Mueller's enthusiasm, which was a great encouragement to the Committee. He none the less wondered how, when so many NGOs were taking action with boundless dedication, some countries still had not ratified the Convention on the Rights of the Child.

32. Mrs. MUELLER (Pathways to Peace) said that, to begin with, there were many NGOs established in countries which had ratified the Convention. In her own country, the United States of America, which had not ratified it, Pathways to Peace, as well as other organizations, were bringing unceasing pressure to bear, and still more during the present run-up to the election, on United States political leaders. She hoped that their efforts would soon be crowned with success.

33. Mr. HAMMARBERG said he wondered whether the Committee should have direct contacts with children. It should indeed avoid falling into the trap of bureaucracy and speaking of their rights without ever taking an interest in children themselves. Nevertheless, he feared that by inviting young people to speak before the Committee, by producing a certain juvenile atmosphere, the Committee might have a good conscience, but young people would simply play a walk-on part. The best thing for the Committee would be to communicate with children and adolescents through NGOs. The Committee had already shown that it was open to broad cooperation with non-governmental organizations, and children could and should make themselves heard through them.

34. Mrs. MASON said that children, the prime subject of the Convention, should play a full part in the Committee's work. It might be advisable later to envisage the adoption of a protocol, whereby they could transmit communications. For the moment, it was essential for the Committee to remain open and human and not to close off any participation by children, at any level.

35. The CHAIRMAN extended an invitation to speak to the representative of a group of students from a United States school who had been present during the Committee's work throughout the week.

36. Mr. RUBINSTEIN (Branson School) thanked members of the Committee for their work to help children and assured the Committee that a large number of organizations and young people were ready to support it and work with it.

37. Mrs. SANTOS PAIS said it was gratifying that a group of young people had followed the Committee's work with interest. Perhaps the Committee could in future, where its working methods allowed, again ask young people to respond to its activities. In that regard, under article 42 of the Convention States parties undertook to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

38. Mr. DYER (The Hague Conference on Private International Law) said that he had recently studied some 150 court decisions, from all over the world, on adoption. It seemed that many judges had taken account of the child's opinion when the child was sufficiently mature. He wished to inform members of the Committee that arrangements had been made to hold a meeting in January 1993 in The Hague on the implementation of the Convention on civil aspects of international abduction of children, and he hoped that the Committee would be represented by one of its members. He feared, however, that it might not be possible owing to the timetable. He, too, was examining ways in which children's opinions could be properly expressed at the meeting.

39. Mgr. BAMBAREN GASTELUMENDI pointed out that Committee members spoke with States, but above all they should heed children and act to serve them.

The meeting rose at 1.05 p.m.